

29
JLUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case:2:13-cr-20518
Judge: Hood, Denise Page
MJ: Grand, David R.
Filed: 07-12-2013 At 12:28 PM
INDI USA V. SEALED MATTER (DA)

D-1 HAPPY ASKER

OffensesCt. 1: 18 U.S.C. § 371 –
Conspiracy to Defraud the United States

D-3 TOM J. YALDO

Cts. 2-4: 26 U.S.C. § 7206(1) –
Filing a False Income Tax Return

D-4 ARKAN SUMMA

Cts. 5-59: 26 U.S.C. § 7206(2) –
Aiding or Assisting in the Filing of a False
Payroll and Income Return

D-5 TAGRID SUMMA BASHI

Cts. 60-62: 26 U.S.C. § 7212(a) –
Corrupt Endeavor to Obstruct or Impede
the Due Administration of the Internal
Revenue Laws

Defendants.

INDICTMENT

The Grand Jury in and for the Eastern District of Michigan, sitting at Detroit, charges:

COUNT 1

18 U.S.C. § 371

Conspiracy to Defraud the United States
(Happy Asker, Maher Bashi, and Tom J. Yaldo)

D-1 HAPPY ASKER
D-2 MAHER BASHI
D-3 TOM J YALDO

Defendants and Entities

At all times relevant to this Indictment:

1. Happy's Pizza Foods, Inc., Happy's Pizza Franchise, LLC, and Happy's Pizza Holdings, LLC, were Subchapter S corporations that operated in and from Farmington Hills, Michigan, and were solely owned and controlled by HAPPY ASKER.

2. The Happy's Pizza restaurant franchises ("Happy's Pizza"), were a series of pizza delivery restaurants operating in Michigan, California, Illinois, Indiana, Nevada, and Ohio.

3. The Defendant HAPPY ASKER was the founder and a controlling shareholder in most Happy's Pizza franchises operating from numerous locations, including, but not limited to, the following addresses:

- (a) 26760 Southfield Road, Lathrup Village, Michigan ("Happy's Pizza Number 8");
- (b) 4220 Livernois Avenue, Detroit, Michigan ("Happy's Pizza Number 9");
- (c) 9635 Telegraph Rd, Redford, Michigan ("Happy's Pizza Number 14");
- (d) 7170 Orchard Lake Rd, West Bloomfield, Michigan ("Happy's Pizza Number 24);
- (e) 3980 Lee Road, Cleveland, Ohio ("Happy's Pizza Cleveland Number 2");
- (f) 1472 W Sylvania Avenue, Toledo, Ohio ("Happy's Pizza Toledo Number 2); and
- (g) 27 S. Reynolds Road, Toledo, Ohio ("Happy's Pizza Toledo Number 3) ("ASKER Happy's Pizza franchises").

4. The Defendant MAHER BASHI, a resident of West Bloomfield, Michigan, was an executive officer working for Happy's Pizza. Defendant MAHER BASHI worked

at Happy's Pizza headquarters, in Farmington Hills, Michigan, and assisted the Defendant HAPPY ASKER by supervising his Happy's Pizza franchise operations.

5. The Defendant TOM J. YALDO, a resident of West Bloomfield, Michigan, maintained an office at Happy's Pizza headquarters and was a shareholder in Happy's Pizza franchises operating from numerous locations, including, but not limited to, the following:

- (a) 28867 Van Dyke, Warren, Michigan ("Happy's Pizza Number 20");
- (b) 13074 Dix, Southgate, Michigan ("Happy's Pizza Number 25");
- (c) 4901 Clio, Flint, Michigan ("Happy's Pizza Number 29");
- (d) 6045 South Cedar Street, Lansing, Michigan ("Happy's Pizza Number 35");
- (e) 24105 Eureka, Taylor, Michigan ("Happy's Pizza Number 39");
- (f) 1247 E 87th Street, Chicago, Illinois ("Happy's Pizza Chicago Number 1");
and
- (g) 4908 A Turney, Garfield Heights, Ohio ("Happy's Pizza Cleveland Number 4").

("YALDO Happy's Pizza franchises").

The Income Tax System

6. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States. The Internal Revenue Code, and regulations enacted thereunder, provided the federal tax laws in the United States.

7. Every citizen and resident of the United States who received gross income in excess of the minimum filing amount established by law for a particular tax year is required to annually make and file an income tax return for that tax year, typically by April 15 of the following year. Individuals were required to prepare and file income tax returns on a Form 1040 or its equivalent.

8. Partnerships and corporations were required to report gross income on tax returns to be filed with the IRS. Subchapter S corporations were required to report income on a Form 1120S U.S. Corporation Income Tax Return for an S-Corporation ("Form 1120S") and to report each shareholder's share of income, deductions, and credits on a Schedule K-1.

9. Gross income means all income from whatever source derived, including compensation for services such as wages and Schedule K-1 shareholder income.

10. Employers are required to withhold, account for, and pay over to the IRS a variety of taxes from employee wages, collectively referred to as "Payroll Taxes." These taxes were: Federal Income Tax Withholding ("Withholding Taxes"); Federal Insurance Contribution Act taxes ("FICA Taxes"); and Federal Unemployment Tax Act taxes ("FUTA"), as more particularly described below:

(a) Withholding Taxes: In general, an employer must deduct and withhold income tax on the amount of wages that actually or constructively are paid to its employees, and pay over those withholding taxes to the IRS;

(b) FICA Taxes: The FICA tax is comprised of two elements: old-age, survivor and disability insurance, commonly referred to as "Social Security," and health insurance, commonly referred to as "Medicare." Social Security taxes are used to fund

retirement and disability benefits, while Medicare taxes are used to provide health and medical benefits for the aged and disabled. An employer must deduct FICA taxes on the amount of wages that actually or constructively are paid to its employees, and pay over those FICA taxes to the IRS; and

(c) FUTA Taxes: The FUTA tax is levied as an excise tax against the employer, based on the total wages paid by the employer.

11. To account for payroll taxes that must be paid to the IRS, the Internal Revenue Code required employers to prepare tax forms, including a Form W-2 Wage and Tax Statement ("Form W-2") and to file them annually with the IRS. The Internal Revenue Code required employers to accurately report to the IRS amounts of employee wages paid, as well as Payroll Taxes due and withheld based on those wages.

12. Section 7501 of the Internal Revenue Code provided that whenever any person is required to withhold or collect any internal revenue tax from any other person and to pay over such tax to the United States, the amount of tax so withheld or collected shall be held in trust on behalf of the United States.

13. Employers must report Payroll Taxes – except the FUTA tax, on an Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"). The Form 941 is filed quarterly, and is due one month after the conclusion of each quarter.

14. Employer paid FUTA Taxes are reported on an Employer's Annual Federal Unemployment Tax Return ("Form 940"). The Form 940 is filed annually, and is due by the last day of the first calendar month after the calendar year ends

The Conspiracy

15. The allegations in paragraph 1 through 14 of this Indictment are re-alleged and incorporated as if set forth in full herein.

16. From on or about June 1, 2004, to in or about April 2011, in the Eastern District of Michigan, and elsewhere,

HAPPY ASKER,
MAHER BASHI,
and
TOM J. YALDO,

the Defendants herein, did unlawfully, voluntarily, intentionally, and knowingly conspire and agree with each other, and others known and unknown to the Grand Jury, to defraud the United States and the IRS by impeding, impairing, obstructing, and defeating the lawful Government functions of the IRS in the ascertainment, assessment, computation and collection of the revenue, to wit, Payroll and Income Taxes.

Objective of the Conspiracy

17. The objective of the conspiracy was for the Defendants to enrich themselves by defrauding a department of the United States government; to wit the IRS, by implementing a scheme which systematically underreported the taxable income and payroll taxes of Happy's Pizza franchises, and distributed the resulting gain among the Defendants and the Happy's Pizza franchise partners.

The Fraudulent Scheme

18. From on or about June 1, 2004, to in or about April 2011, the Defendants HAPPY ASKER, MAHER BASHI, TOM J. YALDO, and others created, developed, managed, operated, and participated in a scheme whereby they, and other ASKER Happy's Pizza franchise shareholders and employees, maintained two sets of business

books and records, diverted Happy's Pizza gross receipts, underreported payroll expense to the IRS, paid employees in cash, and received income that was not reported to the IRS. This scheme was known within the Happy's Pizza franchises as the "Profit Split Scheme."

19. As part of the scheme and to further its objectives, the Defendants maintained a computer spreadsheet of business income and expenses for each Happy's Pizza franchise which understated the true income and expenses for each franchise. These fraudulent income and expense figures were provided to the accountants and tax return preparers for the purpose of preparing false and fraudulent income tax returns for the Happy's Pizza franchises.

20. As part of the scheme and to further its objectives, the Defendants instructed the Happy's Pizza franchise partners to maintain a second set of books and records for every Happy's Pizza franchise that recorded the true and accurate income and expenses for each franchise. The second set of books and records was known as the "Dome Books." The Dome Books were not provided to the franchises' accountants and tax return preparers. Once each week, normally on Monday, using the Dome Books, a net profit figure was calculated for each Happy's Pizza franchise for that week and distributed to each franchise partner in cash based on established ownership percentages. This income distribution was not reported to the accountants and tax return preparers for the Happy's Pizza franchises, or to the IRS.

21. As part of the scheme and to further its objectives, the Defendants, instructed and caused the franchise partners to systematically underreport the wages

paid to employees to the payroll service contracted to prepare payroll tax returns for the Happy's Pizza franchises.

22. From on or about June 1, 2004, to in or about April 2011, the Happy's Pizza franchises paid approximately \$2,110,840 in wages to shareholders and employees that were not reported on Forms W-2 or Forms 941 submitted to the IRS.

Manner and Means of the Conspiracy

23. Among the manner and means by which the Defendants, together with others known and unknown to the Grand Jury, created, developed, managed, operated, and participated in the Profit Split Scheme as follows:

- (a) The Defendants maintained and caused to be maintained two sets of business books and records for the Happy's Pizza franchises, consisting of one accurate set of books and records, the "Dome Books," that accurately reported business gross receipts and expenses, and one fraudulent set of books and records that under-reported business income and expenses, including payroll.
- (b) The Defendants provided the fraudulent set of books for the Happy's Pizza franchises to their accountants and tax return preparers, thereby causing the underreporting of gross receipts, income and expenses of the Happy's Pizza franchises to the IRS.
- (c) The Defendants caused false Forms 1120S for the Happy's Pizza franchises to be filed with the IRS that failed to include the full and accurate amount of the gross receipts, income and expenses of the Happy's Pizza franchises to the IRS.

(d) The Defendants caused false Schedules K-1 for the Happy's Pizza franchises to be issued to shareholders that omitted income paid to the Happy's Pizza franchise partners in the Profit Split Scheme.

(e) The Defendants directed Happy's Pizza franchise partners to pay their employees' wages entirely in cash, and to report to the payroll service company only a portion of the cash wages paid to these employees.

(f) The Defendants caused false and fraudulent Forms 941 and 940 for the Happy's Pizza franchises to be filed with the IRS that did not include the full amount of cash wages paid to franchise employees, and failed to account for Payroll Taxes owed by the franchises and employees on these cash wages.

(g) The Defendants caused the Happy's Pizza franchises to issue false Forms W-2 to certain employees that included only a portion of the cash wages paid to franchise employees.

(h) The Defendants caused false Forms 1040 for Happy's Pizza shareholders and employees to be filed with the IRS that omitted income paid to franchise partners through the Profit Split Scheme.

Overt Acts

24. On or about the dates indicated in the table below, the Defendants HAPPY ASKER and MAHER BASHI caused false Forms 1120S to be filed with the IRS on behalf of the ASKER Happy's Pizza franchise indicated in the table below:

	Franchise	Calendar Year	Approximate Filing Date	Gross Receipts (or Sales) Reported	Approximate Unreported Gross Receipts
(a)	Happy's Pizza Number 8	2006	August 15, 2007	\$501,114	\$685,000

(b)	Happy's Pizza Number 8	2007	September 30, 2008	\$541,624	\$759,000
(c)	Happy's Pizza Number 8	2008	September 12, 2009	\$661,459	\$467,000
(d)	Happy's Pizza Number 9	2009	June 8, 2010	\$696,805	\$295,000

25. On or about the dates indicated in the table below, the Defendants HAPPY ASKER, MAHER BASHI, and TOM J. YALDO caused false Forms 1120S to be filed with the IRS on behalf of the YALDO Happy's Pizza franchises indicated in the table below:

	Franchise	Calendar Year	Approximate Filing Date	Gross Receipts (or Sales) Reported	Approximate Unreported Gross Receipts
(a)	Happy's Pizza Number 25	2008	February 21, 2009	\$507,479	\$205,000
(b)	Happy's Pizza Number 25	2009	February 4, 2010	\$700,800	\$276,000
(c)	Happy's Pizza Number 29	2008	April 6, 2009	\$458,615	\$248,00
(d)	Happy's Pizza Number 29	2009	March 11, 2010	\$647,691	\$230,994
(e)	Happy's Pizza Number 35	2008	September 21, 2009	\$416,613	\$211,000
(f)	Happy's Pizza Number 35	2009	June 28, 2010	\$1,184,180	\$411,000
(g)	Happy's Pizza Number 39	2009	April 4, 2011	\$1,146,917	\$145,000

26. On or about the dates indicated in the table below, the Defendant HAPPY ASKER, who was the taxpayer, caused false Forms 1040 to be filed with the IRS, as indicated in the table below:

	Taxpayer	Calendar Year	Approximate Filing Date	False Total Income on Form 1040 (Line 22)
(a)	HAPPY ASKER	2005	January 29, 2007	\$236,985

(b)	HAPPY ASKER	2006	October 15, 2007	\$220,057
(c)	HAPPY ASKER	2007	May 18, 2009	\$346,523
(d)	HAPPY ASKER	2008	February 28, 2010	\$553,043

27. On or about the dates indicated in the table below, defendants HAPPY ASKER and MAHER BASHI caused false Forms 941 to be filed with the IRS for each of the quarters and years listed in the table below on behalf of the named Happy's Pizza franchises indicated in the table below:

	Franchise	Calendar Year & Quarter	Approximate Filing Date	Wages Reported on Forms 941	Approximate Unreported Wages
(a)	Happy's Pizza Number 8	2006 1Q	April 30, 2006	\$15,000	\$47,011
(b)	Happy's Pizza Number 8	2006 2Q	January 24, 2007	\$17,863	\$41,909
(c)	Happy's Pizza Number 8	2006 3Q	October 31, 2006	\$15,121	\$43,425
(d)	Happy's Pizza Number 8	2006 4Q	January 31, 2007	\$17,255	\$48,874
(e)	Happy's Pizza Number 8	2007 1Q	April 30, 2007	\$17,516	\$53,585
(f)	Happy's Pizza Number 8	2007 2Q	July 31, 2007	\$19,056	\$45,222
(g)	Happy's Pizza Number 8	2007 3Q	October 31, 2007	\$17,660	\$48,239
(h)	Happy's Pizza Number 8	2007 4Q	January 31, 2008	\$19,754	\$49,240
(i)	Happy's Pizza Number 8	2008 1Q	April 30, 2008	\$20,762	\$42,256
(j)	Happy's Pizza Number 8	2008 2Q	July 31, 2008	\$24,236	\$35,907
(k)	Happy's Pizza Number 8	2008 3Q	November 4, 2008	\$27,915	\$30,490
(l)	Happy's Pizza Number 8	2008 4Q	January 31, 2009	\$23,732	\$34,773
(i)	Happy's Pizza Number 9	2009 1Q	May 4, 2009	\$30,917	\$27,921
(j)	Happy's Pizza Number 9	2009 2Q	July 31, 2009	\$25,833	\$20,072

	Franchise	Calendar Year & Quarter	Approximate Filing Date	Wages Reported on Forms 941	Approximate Unreported Wages
(k)	Happy's Pizza Number 9	2009 3Q	October 31, 2009	\$20,597	\$29,968
(l)	Happy's Pizza Number 9	2009 4Q	February 3, 2010	\$27,017	\$26,877
(m)	Happy's Pizza Toledo Number 2	2009 1Q	May 4, 2009	\$32,817	\$24,347
(n)	Happy's Pizza Toledo Number 2	2009 2Q	July 31, 2009	\$25,427	\$30,769
(o)	Happy's Pizza Toledo Number 2	2009 3Q	October 31, 2009	\$31,954	\$20,154
(p)	Happy's Pizza Toledo Number 2	2009 4Q	February 3, 2010	\$25,959	\$21,773

28. On or about the dates indicated in the table below, defendants HAPPY ASKER, MAHER BASHI, and TOM J. YALDO caused false Forms 941 to be filed with the IRS for each of the quarters and years listed in the table below on behalf of the YALDO Happy's Pizza franchises indicated in the table below:

	Franchise	Tax Year & Quarter	Approximate Filing Date	Wages Reported on Forms 941	Approximate Unreported Wages
(a)	Happy's Pizza Number 25	2008 2Q	July 31, 2008	\$19,447	\$31,177
(b)	Happy's Pizza Number 25	2008 3Q	November 4, 2008	\$39,702	\$33,401
(c)	Happy's Pizza Number 25	2008 4Q	January 31, 2009	\$37,732	\$26,573
(s)	Happy's Pizza Number 25	2009 1Q	May 4, 2009	\$36,403	\$32,980
(e)	Happy's Pizza Number 25	2009 2Q	July 31, 2009	\$37,854	\$29,171
(f)	Happy's Pizza Number 25	2009 3Q	October 31, 2009	\$25,355	\$39,982
(f)	Happy's Pizza Number 25	2009 4Q	February 3, 2010	\$25,127	\$41,483
(g)	Happy's Pizza Number 29	2008 2Q	July 31, 2008	\$23,167	\$54,390

	Franchise	Tax Year & Quarter	Approximate Filing Date	Wages Reported on Forms 941	Approximate Unreported Wages
(h)	Happy's Pizza Number 29	2008 3Q	November 4, 2008	\$21,252	\$41,133
(i)	Happy's Pizza Number 29	2008 4Q	January 31, 2009	\$25,013	\$23,547
(j)	Happy's Pizza Number 29	2009 1Q	May 4, 2009	\$29,275	\$36,231
(k)	Happy's Pizza Number 29	2009 2Q	July 31, 2009	\$31,239	\$25,681
(l)	Happy's Pizza Number 29	2009 3Q	October 31, 2009	\$21,961	\$29,299
(m)	Happy's Pizza Number 29	2009 4Q	February 3, 2010	\$17,261	\$37,461
(n)	Happy's Pizza Number 29	2010 1Q	May 4, 2010	\$20,247	\$40,467
(o)	Happy's Pizza Number 29	2010 2Q	August 4, 2010	\$17,547	\$35,640
(q)	Happy's Pizza Number 29	2010 3Q	November 3, 2010	\$30,629	\$2,902
(r)	Happy's Pizza Number 35	2008 3Q	November 4, 2008	\$4,565	\$28,882
(s)	Happy's Pizza Number 35	2008 4Q	January 31, 2009	\$17,734	\$109,186
(t)	Happy's Pizza Number 35	2009 1Q	May 4, 2009	\$23,322	\$88,042
(u)	Happy's Pizza Number 35	2009 2Q	July 31, 2009	\$25,494	\$70,043
(v)	Happy's Pizza Number 35	2009 3Q	October 31, 2009	\$24,361	\$71,038
(w)	Happy's Pizza Number 35	2009 4Q	February 3, 2010	\$27,603	\$71,641
(x)	Happy's Pizza Number 35	2010 1Q	May 4, 2010	\$32,029	\$69,483
(y)	Happy's Pizza Number 35	2010 2Q	August 4, 2010	\$26,877	\$55,952
(z)	Happy's Pizza Number 35	2010 3Q	November 3, 2010	\$39,219	\$10,280
(aa)	Happy's Pizza Number 39	2009 3Q	October 31, 2009	\$14,679	\$24,025
(bb)	Happy's Pizza Number 39	2009 4Q	February 3, 2010	\$39,858	\$31,055

	Franchise	Tax Year & Quarter	Approximate Filing Date	Wages Reported on Forms 941	Approximate Unreported Wages
(cc)	Happy's Pizza Chicago Number 1	2009 4Q	February 3, 2010	\$48,874	\$23,416
(dd)	Happy's Pizza Chicago Number 1	2010 1Q	May 4, 2010	\$42,438	\$23,899
(ee)	Happy's Pizza Chicago Number 1	2010 2Q	August 4, 2010	\$42,234	\$14,697
(ff)	Happy's Pizza Cleveland Number 1	2009 1Q	May 4, 2009	\$103,978	\$63,586
(gg)	Happy's Pizza Cleveland Number 1	2009 2Q	July 31, 2009	\$74,777	\$23,765
(hh)	Happy's Pizza Cleveland Number 1	2009 3Q	October 31, 2009	\$62,690	\$17,355
(ii)	Happy's Pizza Cleveland Number 1	2009 4Q	February 3, 2010	\$62,345	\$12,578
(jj)	Happy's Pizza Cleveland Number 2	2009 1Q	May 4, 2009	\$77,708	\$39,985
(kk)	Happy's Pizza Cleveland Number 2	2009 2Q	July 31, 2009	\$66,477	\$9,033
(ll)	Happy's Pizza Cleveland Number 2	2009 3Q	October 31, 2009	\$52,463	\$2,873
(mm)	Happy's Pizza Cleveland Number 2	2009 4Q	February 3, 2010	\$49,791	\$6,256

All in violation of Title 18, United States Code, Section 371.

The Grand Jury further charges:

COUNT 2-4

26 U.S.C. § 7206(1)
Filing a False Return
(Happy Asker)

D-1 HAPPY ASKER

29. Paragraphs 1 through 14 and 17 through 29 of this Indictment are realleged as if set forth in full herein.

30. On or about the dates set forth below, in the Eastern District of Michigan and elsewhere,

HAPPY ASKER

the Defendant herein, did make or subscribe false Forms 1040, for the calendar year set forth below, each of which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the IRS, which HAPPY ASKER did not believe to be true and correct as to every material matter, in that the returns falsely reported as total income the amounts set forth below, whereas, as HAPPY ASKER then and there well knew and believed, the actual total income was in excess of the reported total income:

Count	Tax Year	Approximate Filing Date	False Total Income on Form 1040 (Line 22)
2	2006	October 15, 2007	\$220,057
3	2007	May 18, 2009	\$346,523
4	2008	February 28, 2010	\$553,043

In violation of Title 26, United States Code, Section 7206(1).

The Grand Jury further charges:

COUNT 5-25

26 U.S.C. § 7206(2)
Aiding or Assisting in the Filing of a False Return
(Happy Asker)
(Maher Bashi)

D-1 HAPPY ASKER
D-2 MAHER BASHI

31. The allegations in paragraph 1 through 14 and 17 through 29 of this Indictment are re-alleged and incorporated as if set forth in full herein.

32. On or about the dates set forth below, in the Eastern District of Michigan and elsewhere

HAPPY ASKER, and

MAHER BASHI

the Defendants herein, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of false Forms 941 and Forms 940, for the calendar years and quarters set forth below, each of which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the IRS, which the Defendants did not believe to be true and correct as to every material matter, in that the returns falsely reported as wages and total payments to all employees amounts set forth below, whereas, the Defendants then and there well knew and believed, the actual wages reported or total payments to all employees were in excess of the reported wages reported or total payments to all employees indicated below:

Count	Franchise	Calendar Year / Quarter	Form	Approximate Filing Date	Approximate Wages Reported on Form 941 or Total Payments to all Employees Reported on Form 940
5	Happy's Pizza Number 8	2008 2Q	Form 941	July 31, 2008	\$24,236
6	Happy's Pizza Number 8	2008 3Q	Form 941	November 4, 2008	\$27,915

Count	Franchise	Calendar Year / Quarter	Form	Approximate Filing Date	Approximate Wages Reported on Form 941 or Total Payments to all Employees Reported on Form 940
7	Happy's Pizza Number 8	2008 4Q	Form 941	January 31, 2008	\$23,732
8	Happy's Pizza Number 8	2008	Form 940	February 9, 2009	\$96,647
9	Happy's Pizza Number 9	2009 1Q	Form 941	May 1, 2009	\$30,917
10	Happy's Pizza Number 9	2009 2Q	Form 941	July 31, 2009	\$25,833
11	Happy's Pizza Number 9	2009 3Q	Form 941	October 31, 2009	\$20,597
12	Happy's Pizza Number 9	2009 4Q	Form 941	February 3, 2010	\$27,017
13	Happy's Pizza Number 9	2009	Form 940	February 8, 2010	\$104,366
14	Happy's Pizza Number 29	2009 4Q	Form 941	February 3, 2010	\$17,261
15	Happy's Pizza Number 29	2010 1Q	Form 941	May 4, 2010	\$20,247
16	Happy's Pizza Number 29	2010 2Q	Form 941	August 5, 2010	\$17,547
17	Happy's Pizza Number 29	2010 3Q	Form 941	November 3, 2010	\$30,629
18	Happy's Pizza Number 29	2009	Form 940	February 8, 2010	\$100,437

Count	Franchise	Calendar Year / Quarter	Form	Approximate Filing Date	Approximate Wages Reported on Form 941 or Total Payments to all Employees Reported on Form 940
19	Happy's Pizza Number 35	2010 1Q	Form 941	May 4, 2010	\$32,029
20	Happy's Pizza Number 35	2010 2Q	Form 941	August 4, 2010	\$26,877
21	Happy's Pizza Number 35	2010 3Q	Form 941	November 3, 2010	\$32,219
22	Happy's Pizza Number 35	2010	Form 940	February 8, 2011	\$1,771
23	Happy's Pizza Number 39	2009 3Q	Form 941	October 31, 2009	\$14,679
24	Happy's Pizza Number 39	2009 4Q	Form 941	November 3, 2010	\$39,858
25	Happy's Pizza Number 39	2009	Form 940	February 8, 2010	\$54,538

In violation of Title 26, United States Code, Section 7206(2).

The Grand Jury further charges:

COUNT 26-48

26 U.S.C. § 7206(2)
Aiding or Assisting in the Filing of a False Return
(Tom J. Yaldo)

D-3 TOM J. YALDO

33. Paragraphs 1 through 14 and 17 through 29 of this Indictment are realleged as if set forth in full herein.

34. On or about the dates set forth below, in the Eastern District of Michigan and elsewhere,

TOM J. YALDO

the Defendant herein, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of false Forms 941 and Forms 940, for the calendar year and quarter set forth below, each of which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the IRS, which TOM J. YALDO did not believe to be true and correct as to every material matter, in that the returns falsely reported as wages reported or total payments to all employees amounts set forth below, whereas, as TOM J. YALDO then and there well knew and believed, the actual wages reported and total payments to all employees was in excess of the reported wages reported or total payments to all employees indicated below:

Count	Franchise	Calendar Year / Quarter	Form	Approximate Filing Date	Approximate Wages Reported on Form 941 or Total Payments to all Employees Reported on Form 940
26	Happy's Pizza Number 20	2009 4Q	Form 941	February 3, 2010	\$680.00
27	Happy's Pizza Number 20	2010 1Q	Form 941	May 4, 2010	\$14,959

Count	Franchise	Calendar Year / Quarter	Form	Approximate Filing Date	Approximate Wages Reported on Form 941 or Total Payments to all Employees Reported on Form 940
28	Happy's Pizza Number 20	2010 2Q	Form 941	August 4, 2010	\$15,486
29	Happy's Pizza Number 20	2010 3Q	Form 941	November 2, 2010	\$16,654
30	Happy's Pizza Number 20	2009	Form 940	February 8, 2010	\$570
31	Happy's Pizza Number 25	2009 4Q	Form 941	February 3, 2010	\$25,127
32	Happy's Pizza Number 25	2010 1Q	Form 941	May 4, 2010	\$20,790
33	Happy's Pizza Number 25	2010 2Q	Form 941	August 4, 2010	\$15,155
34	Happy's Pizza Number 25	2010 3Q	Form 941	November 3, 2010	\$25,129
35	Happy's Pizza Number 25	2009	Form 940	January 31, 2010	\$104,366
36	Happy's Pizza Number 29	2009 4Q	Form 941	February 3, 2010	\$17,261
37	Happy's Pizza Number 29	2010 1Q	Form 941	May 4, 2010	\$20,247
38	Happy's Pizza Number 29	2010 2Q	Form 941	August 5, 2010	\$17,547
39	Happy's Pizza Number 29	2010 3Q	Form 941	November 3, 2010	\$30,629

Count	Franchise	Calendar Year / Quarter	Form	Approximate Filing Date	Approximate Wages Reported on Form 941 or Total Payments to all Employees Reported on Form 940
40	Happy's Pizza Number 29	2009	Form 940	February 8, 2010	\$100,437
41	Happy's Pizza Number 35	2009 4Q	Form 941	February 3, 2010	\$27,603
42	Happy's Pizza Number 35	2010 1Q	Form 941	May 4, 2010	\$32,029
43	Happy's Pizza Number 35	2010 2Q	Form 941	August 4, 2010	\$26,877
44	Happy's Pizza Number 35	2010 3Q	Form 941	November 3, 2010	\$32,219
45	Happy's Pizza Number 35	2010	Form 940	February 8, 2011	\$1,771
46	Happy's Pizza Number 39	2009 3Q	Form 941	October 31, 2009	\$14,679
47	Happy's Pizza Number 39	2009 4Q	Form 941	November 3, 2010	\$39,858
48	Happy's Pizza Number 39	2009	Form 940	February 8, 2010	\$54,538

In violation of Title 26, United States Code, Section 7206(2).

The Grand Jury further charges:

COUNT 49-59

26 U.S.C. § 7206(2)
Aiding or Assisting in the Filing of a False Return

(Happy Asker and Maher Bashi)

D-1 HAPPY ASKER
D-2 MAHER BASHI

35. Paragraphs 1 through 14 and 17 through 29 of this Indictment are realleged as if set forth in full herein.

36. On or about the dates set forth below, in the Eastern District of Michigan and elsewhere, defendants,

HAPPY ASKER
and
MAHER BASHI,

the Defendants herein, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of Forms 1120S on behalf of the Happy's Pizza franchise indicated in the table below, for the calendar years indicated each of which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the IRS, which HAPPY ASKER and MAHER BASHI did not believe to be true and correct as to every material matter, in that the returns falsely reported as gross receipts the amounts set forth below, whereas, as HAPPY ASKER and MAHER BASHI then and there well knew, the actual gross receipts of the Happy's Pizza franchise indicated below were in excess of the gross receipts reported:

Count	Franchise	Calendar Year	Approximate Filing Date	Approximate Gross Receipts (or Sales) Reported
49	Happy's Pizza No. 8	2006	August 15, 2007	\$501,114
50	Happy's Pizza No. 8	2007	September 30, 2008	\$561,624

51	Happy's Pizza No. 8	2008	September 12, 2009	\$661,459
52	Happy's Pizza No. 9	2009	June 8, 2010	\$696,805
53	Happy's Pizza No. 25	2008	February 21, 2009	\$507,479
54	Happy's Pizza No. 25	2009	February 4, 2010	\$700,800
55	Happy's Pizza No. 29	2008	April 6, 2009	\$458,615
56	Happy's Pizza No. 29	2009	March 11, 2010	\$647,691
57	Happy's Pizza No. 35	2008	September 21, 2009	\$416,613
58	Happy's Pizza No. 35	2009	June 28, 2010	\$1,184,180
59	Happy's Pizza No. 39	2009	April 4, 2011	\$1,146,917

In violation of Title 26, United States Code, Section 7206(2).

The Grand Jury further charges:

COUNT 60

26 U.S.C. § 7212(a)
 Corrupt endeavor to Obstruct or Impede the
 Due Administration of the Internal Revenue Laws
 (Happy Asker and Maher Bashi)

D-1 HAPPY ASKER
 D-2 MAHER BASHI

37. Paragraphs 1 through 14 and 17 through 29 of this Indictment are realleged as if set forth in full herein.

38. From on or about June 1, 2004, to in or about April 2011, in the Eastern District of Michigan and elsewhere,

HAPPY ASKER
and
MAHER BASHI,

the Defendants herein, did corruptly endeavor to obstruct and impede the due administration of the Internal Revenue Laws by:

(a) Concealing Defendant ARKAN SUMMA's investment, ownership, earned shareholder's income, and control of Happy's Pizza No. 14, Happy's Pizza No. 24, Happy's Pizza Toledo No. 2, and Happy's Pizza Toledo No. 3, by among other things, providing false information to Special Agents from the IRS – Criminal Investigation Division on December 1, 2010.

(b) Utilizing the Profit Split Scheme method of diverting gross receipts, paying employees cash, and underreporting wages and shareholder income earned from the operation of the ASKER Happy's Pizza franchises, thus concealing from the IRS a substantial portion of the taxable income from these businesses; and

(c) Participating in the practice of substantially underreporting the wages of the employees of the ASKER Happy's Pizza franchises to the IRS by fraudulently reporting only a portion of these employees' wages to a payroll service company, for which a payroll stub was issued, and paying the entirety of these employees' wages in cash.

In violation of Title 26, United States Code, Section 7212(a) and Title 18, United States Code, Section 2.

The Grand Jury further charges:

COUNT 61

26 U.S.C. § 7212(a)

Corrupt endeavor to Obstruct or Impede the
Due Administration of the Internal Revenue Laws
(Tom J. Yaldo)

D-3 TOM J. YALDO

39. Paragraphs 1 through 14 and 17 through 29 of this Indictment are realleged as if set forth in full herein.

40. From on or about June 1, 2007, to in or about April 2011, in the Eastern District of Michigan and elsewhere,

TOM J. YALDO

the Defendant herein, did corruptly endeavor to obstruct and impede the due administration of the Internal Revenue Laws by:

- (a) Utilizing the Profit Split Scheme, diverting gross receipts, paying employees cash, and underreporting wages and shareholder income earned from the operation of the YALDO Happy's pizza franchises, thus concealing from the IRS a substantial portion of the taxable income from these businesses, and

- (b) Participating in the practice of substantially under-reporting the wages of the employees of the YALDO Happy's Pizza franchises to the IRS by fraudulently reporting only a portion of these employees' wages to a payroll service company, for which a payroll stub was issued, and paying the entirety of these employees' wages in cash.

In violation of Title 26, United States Code, Section 7212(a).

The Grand Jury further charges:

COUNT 62

26 U.S.C. § 7212(a)
Corrupt endeavor to Obstruct or Impede the
Due Administration of the Internal Revenue Laws
(Arkan Summa and Tagrid Summa Bashi)

D-4 ARKAN SUMMA
D-5 TAGRID SUMMA BASHI

41. Paragraphs 1 through 14 and 17 through 29 of this Indictment are realleged as if set forth in full herein.

42. From on or about June 1, 2004, to in or about April 2011, in the Eastern District of Michigan and elsewhere, defendants,

ARKAN SUMMA, and
TAGRID SUMMA BASHI

the Defendants herein, did corruptly endeavor to obstruct and impede the due administration of the Internal Revenue Laws by:

- (a) Concealing Defendant ARKAN SUMMA's investment, ownership, earned shareholder's income, and control of Happy's Pizza franchise Numbers 14, 24, Toledo 2, and Toledo Number 3, by,

among other things, using TAGRID SUMMA BASHI as a nominee owner on the behalf of ARKAN SUMMA;

- (b) Utilizing the Profit Split Scheme, diverting gross receipts, paying employees cash, and underreporting wages and shareholder income earned from the operation of the Happy's Pizza franchises Numbers 14, 24, Toledo 2, and Toledo 3, thus concealing from the IRS a substantial portion of the taxable income from these businesses;
- (c) On August 25, 2010 TAGRID SUMMMA BASHI providing false information to Special Agents of the IRS – Criminal Investigation regarding ARKAN SUMMA'S INVESTMENT, operation, earned shareholder's income, and control of Happy's Pizza franchises Numbers 14, 24, Toledo 2, and Toledo 3; and
- (d) On January 24, 2011 TAGRID SUMMA BASHI providing false information to Special Agents of the IRS – Criminal Investigation Division and the Department of Justice regarding ARKAN SUMMA's investment, operation, earned shareholder's income, and control of Happy's Pizza franchises Numbers 14, 24, Toledo 2, and Toledo 3.

In violation of Title 26, United States Code, Section 7212(a) and Title 18, United States Code, Section 2.

THIS IS A TRUE BILL

s/Grand Jury Foreperson
Grand Jury Foreperson

KATHRYN KENEALLY
Assistant Attorney General
Department of Justice Tax Division
Attorney for the United States
Acting Under Authority Conferred by 28 U.S.C. §515

By s/Corey J. Smith
COREY J. SMITH
Senior Litigation Counsel

s/Mark McDonald
MARK MCDONALD
Trial Attorney

United States District Court
Eastern District of Michigan

Criminal Case Co

Case:2:13-cr-20518
Judge: Hood, Denise Page
MJ: Grand, David R.
Filed: 07-12-2013 At 12:28 PM
INDI USA V. SEALED MATTER (DA)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to co

Reassignment/Recusal Information This matter was opened in the USAO prior to August 15, 2008 []

Companion Case Information		Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :		Judge Assigned:
Yes	X	No
		AUSA's Initials: MM

Case Title: United States of America v. Happy Asker, et al

County where offense occurred : Oakland County

Check One: **Felony** **Misdemeanor** **Petty**

Indictment/____ Information --- no prior complaint.

Indictment/____ Information --- based upon prior complaint [Case number:]

Indictment/____ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

Superseding to Case No: _____ **Judge:** _____

Original case was terminated; no additional charges or defendants.

Corrects errors; no additional charges or defendants.

Involves, for plea purposes, different charges or adds counts.

Embraces same subject matter but adds the additional defendants or charges below:

Defendant name	Charges	Prior Complaint (if applicable)
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Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

July 12, 2013

Date

s/Mark McDonald

MARK McDONALD

Trial Attorney

U.S. Department of Justice, Tax Division
Northern Criminal Enforcement Section

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.